

**REMARKS**

Claims 41-44, 52, 55 and 56 were examined in the Office Action under reply. Claims 42-44 were rejected under 35 U.S.C. §112, second paragraph as being indefinite based on improper antecedent basis. The Office points out that independent claim 41 is directed to a fusion protein and dependent claims recite an “immunogenic polypeptide.” Applicants have amended claims 42-44, 52 and 55 to recite that the fusion protein is linked to the carrier. Thus, this basis for rejection has been overcome and withdrawal thereof is respectfully requested.

The Office Action states claims 41-44, 52, 55 and 56 remain provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 43, 44, 47, 48, 50 and 51 of copending Patent Application Serial No. 08/438,183 and has withdrawn the rejection of claims 41-44, 52, 55, 56 and 53 over copending Patent Application Serial No. 08/437,952 “in view of the TD filed 8/23/2004.” In fact, the Terminal Disclaimer filed with the previous response was over the ‘183 application and not the ‘952 application. Thus, applicants assume the Office intended to withdraw the obviousness-type double patenting rejection over the ‘183 application. Moreover, applicants are filing a Terminal Disclaimer over the ‘952 application. Thus, all bases for rejection have been overcome and withdrawal of the double patenting rejections is respectfully requested.

### CONCLUSION

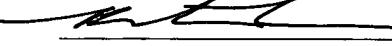
Applicants respectfully submit that the claims are now in condition for allowance.  
Accordingly, an early notification to that effect would be appreciated.

Please direct all further communications in this application to:

Michael J. Moran  
Chiron Corporation  
Intellectual Property – R440  
P.O. Box 8097  
Emeryville, CA 94662-8097  
Telephone: (510) 923-2969  
Facsimile: (510) 655-3542

Respectfully submitted,

Dated: 1/18/05

By:   
Roberta L. Robins  
Reg. No. 33,208  
Attorney for Applicants

Chiron Corporation  
Intellectual Property – R440  
P.O. Box 8097  
Emeryville, CA 94662-8097